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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/982,981	10/22/2001	George D. Escobar	06975-166002	7232
26171 7590 09/13/2007 FISH & RICHARDSON P.C. P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			EXAMINER BROWN, RUEBEN M	
			ART UNIT 2623	PAPER NUMBER
			MAIL DATE 09/13/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.		Applicant(s)	
	09/982,981		ESCOBAR ET AL.	
	Examiner		Art Unit	
	Reuben M. Brown		2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25, 27-32 and 34-83 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25, 27-32 & 34-83 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's Declaration filed 7/21/2007 with respect to the common assignment of the Welsh reference (6,757,691) is sufficient to overcome the 103 rejection mailed 5/17/2007. A new Office Action on the merits follows.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-2, 4-13, 15-25, 27-32, 34-37 & 39-45, 47-60, 63, 66, 69, 72, 75, & 78-83 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sitnik, (U.S. Pat # 6,160,570), in view of Labeeb, (U.S. PG-PUB 2003/01093792).

Considering claim 1, the claimed system comprising

‘a display interface’, is met by the digital TV receiver system of Sitnik, (Fig. 2; col. 4, lines 35-67; col. 6, lines 22-67).

‘input for receiving multiple viewer commands over a predetermined interval of time, each of the multiple of viewer commands being a command to invoke viewing of content at the time of entry, wherein content includes TV channel content, web page content, or e-mail content’, reads on non-volatile storage 22, col. 6, lines 35-67; col. 7, lines 1-55; col. 8, lines 1-15, which receives viewer input commands via user interface 29 and stores them, as a user profile (Fig. 3; S301, S302).

‘interface for sending the multiple viewer commands received over the predetermined interval of time, for analysis, the analysis including determination of viewer preferences for a viewer based on the multiple viewer commands’, also reads on (Fig. 3; col. 1, lines 55-67; col. 8, lines 3-10).

As for the additionally claimed ‘interface for receiving customized EPG data, the customized EPG data being determined based on the viewing preferences for the viewer’ and ‘a processor for creating customized EPG display from the received customized EPG data for output to the display interface’, Sitnik merely discloses that the user viewing preference data may be used to select from one or more alternative images, but does not teach that an EPG may

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also be customized, see col. 8, lines 18-30. Nevertheless Labeeb, which is in the same field of endeavor, discloses arranging the order of display of the EPG (i.e., 'customized EPG') data based on the observed viewing pattern of the user, see Abstract; Para [0049], [0067]-[0071], [0076]-[0082]-[0087], [0155], [0214], [0223].

Both Sitnik (col. 8, lines 1-20) & Labeeb [0105] disclose that the viewer's history of channel selections may take place over a predetermined period of time, which reads on the claimed subject matter of, 'sending the multiple viewer commands for analysis'.

It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Sitnik with the feature of customizing an EPG based on viewer's preferences as taught by Labeeb, Para [0155] & [0478], at least for the advantage of minimizing the time needed by a viewer to access desired content, since the programs that the viewer are more likely to prefer are placed higher in the order.

Considering claims 2, 13 & 37, the claimed 'memory for storing the multiple viewer commands' is met by memory 22, of Sitnik, col. 6, lines 30-45. Also, see Labeeb [0105]-[0108].

Considering claims 4 & 39, see Labeeb Para [2453]; [2468]-2479] which discloses that the EPG data is displayed through a channel browser, which meets the claimed subject matter.

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Considering claims 5-7, 15-17 & 40-42, see Sitnik (col. 6, lines 10-60) & Labeeb [0105].

Considering claims 8, 18 & 43, Sitnik teaches that commercials may be the content alternatively chosen based on viewing preference data, col. 2, lines 17-26; col. 3, lines 1-6.

Considering claims 9, 21, 28, 35 & 47, the 'mini-guides' reads on the customized EPG of Labeeb.

Considering claims 10-11, 19-20 & 44-45, Labeeb teaches determining the identity of customer based on the selection history, Para [0114] & [0215].

Considering claims 12, the claimed elements of a method for displaying customized EPG, corresponds with subject matter mentioned above in the rejection of claim 1, and is likewise treated.

Considering claim 22, the claimed elements of a method for creating an EPG, corresponds with subject matter mentioned above in the rejection of claim 1, and is likewise treated.

Considering claims 23-25 & 30-32, see Sitnik, col. 7, lines 40-50 & Labeeb [1646].

Considering claims 27 & 34, see Sitnik, col. 7, lines 41-51 & Labeeb [0105], [0214].

Considering claims 29, 36 & 56, the claimed system or host, corresponds with subject matter mentioned above in the rejection of claim 1, and is likewise treated.

Regarding the first and second processors recited in claim 36, 'the first processor' corresponds with the editing module 32 of Sitnik, col. 7, lines 41-67. The claimed 'second processor' reads on the operation of the module used in Labeeb to select the programs for display that are best suited for the profile of the customer, Para [0155] & [1291].

Considering claims 48 & 52, the claimed STB reads on the digital TV receiver of Sitnik, Fig. 1.

Considering claims 49-51, 53-55 & 57-59, see Sitnik, col. 4, lines 40-42; col. 6, lines 21-45.

Considering claims 60, 63, 66, 69, 72, 75, 78-83, Sitnik (col. 7, lines 41-55) & Labeeb [0105] are directed to monitoring and recording user channel change and channel selection information.

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4. Claims 3, 14, 38, 46, 61, 64, 67, 70, 73 & 76, are rejected under 35 U.S.C. 103(a) as being unpatentable over Sitnik & Labeeb, further in view of Herz, (U.S. Pat # 5,758,257).

Considering claims 3, 14, 38 & 46, wherein 'the stored multiple commands are periodically accessed by the processor and sent to host for analysis', Sitnik & Labeeb do not teach such a feature. Nevertheless Herz, which is in the same field of endeavor, discloses that a customer selection history/profile may be stored alternatively at the customer's STB or at a headend, in a two-way system, see col. 41, lines 20-60 & col. 42, lines 1-15. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Sitnik with the feature of transmitting a customer's selection history for storage to a headend, at least for the benefit of minimizing memory and processing requirements at the set top box, as taught by Herz, col. 41, lines 35-41.

Considering claims 61, 64, 67, 70, 73 & 76, Sitnik & Labeeb do not discuss monitoring the web page selections of a user when developing a user profile. Nevertheless Herz, which is in the same field of endeavor, discloses that a customer selection history/profile may alternatively include the customer's Internet selections, col. 51, lines 1-35. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Sitnik with the feature of including a customer's Internet selection history, at least for the advantage of including a wider range of interaction, so that customized ticker information may be provided to the instant customer, as taught by Herz, col. 51, line 22-45, which reduces the customer's searching time.

5. Claims 62, 65, 68, 71, 74 & 77 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sitnik & Labeeb, further in view of Albal, (U.S. PG-PUB 2004/0153523).

Considering claims 62, 65, 68, 71, 74 & 77, Sitnik & Labeeb do not discuss monitoring the E-mail content of a user when developing a user profile. Nevertheless, Albal discloses that a customer selection history/profile may include the customer's e-mail usage history, Fig. 2. In particular, Albal teaches that the system may create a record for each of a user's e-mail communication, including destination address, attachment record and other parameters, and thus meets the claimed subject matter, Para [0018]-[0028]. It would have been obvious for one of ordinary skill in the art at the time the invention was made, to modify Sitnik with the feature of including a customer's E-mail usage history, at least for the desirable benefit a creating a more accurate profile of the instant customer, see Albal [0002]-[0004]. It is noted that Albal discloses that the invention is applicable to PC systems and TV systems, and is thus compatible with Sitnik & Labeeb, Para [0010].

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- A) Boyer Teaches receiving an EPG though a web browser.
- B) Haituka Teaches monitoring Internet/e-mail usage.

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Any response to this action should be mailed to:

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or faxed to:

(571) 273-8300, (for formal communications intended for entry)

Or:

(571) 273-7290 (for informal or draft communications, please label
"PROPOSED" or "DRAFT")

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reuben M. Brown M. Brown whose telephone number is (571) 272-7290. The examiner can normally be reached on M-F(8:30-6:00), First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Kelley can be reached on (571) 272-7331. The fax phone numbers for the organization where this application or proceeding is assigned is (571) 273-8300 for regular communications and After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Reuben M. Brown


REUBEN M. BROWN
PATENT EXAMINER